

CC 12-06-2022

#7

Community Development
Department Update

Presentation

Community Development Department



CUPERTINO

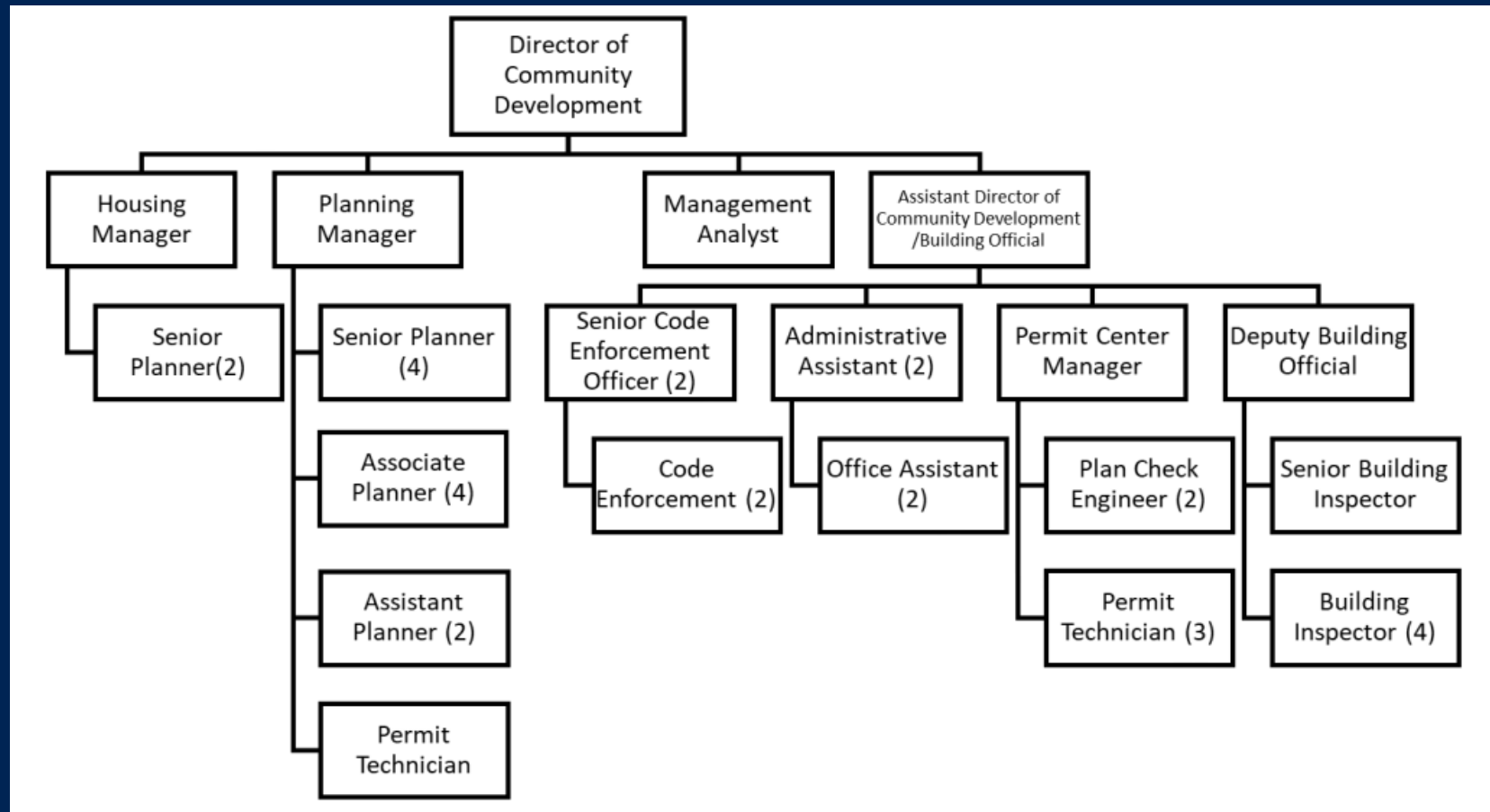
Luke Connolly, Acting Director of Community Development
December 06, 2022



CDD at a Glance

- Housing Division
 - City Affordable Housing Programs, CDBG
- Planning Division
 - General Plan, Zoning, Discretionary Permits, CEQA
- Building Division
 - Permits, Plan checks, Field Inspections.
 - Focus on Bldg Code compliance safety, accessibility
- Code Enforcement

Organization Chart



Housing

- Housing & Human Services Grants (HSG) Program
 - Applications open:
Nov '22 – Feb '23
- Below Market Rate (BMR) Housing Program
 - **142** rental units
 - **121** ownership units
- 2023 BMR Waitlist
 - **899** households added
 - **125** Workshop attendees



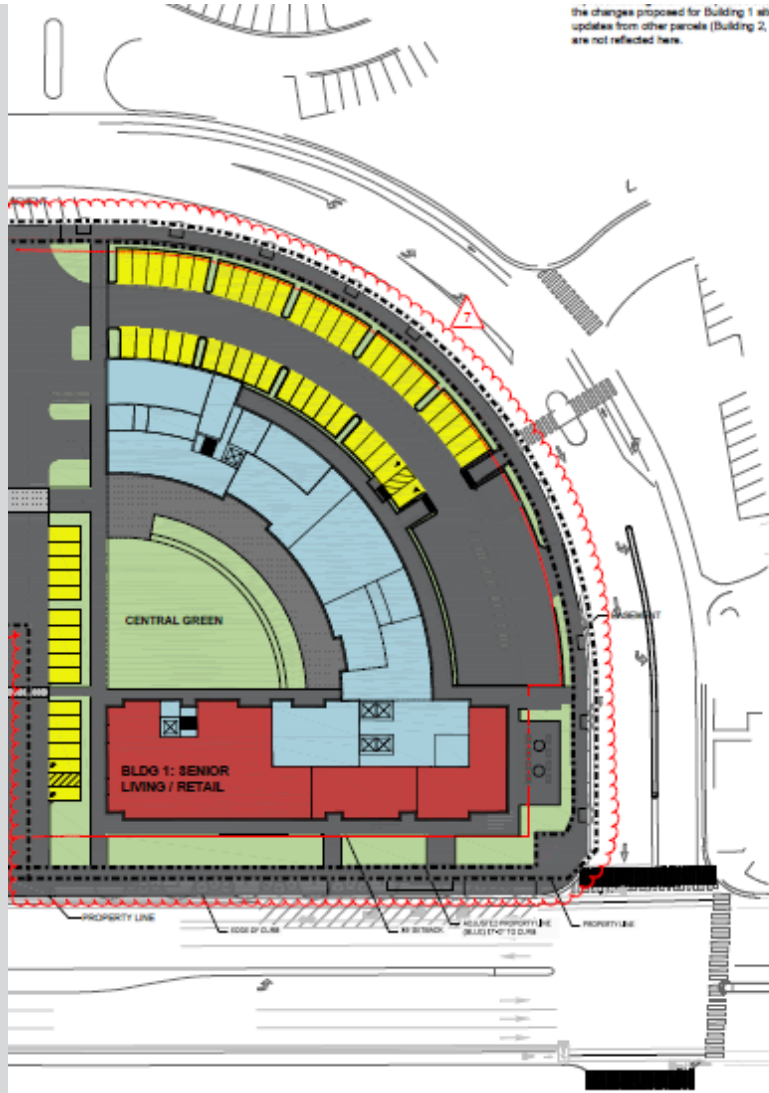
Housing (Contd.)

- Housing Commission
- City Work Program items
 - Support for the Unhoused
 - De Anza Student Housing Program
 - Homeless Jobs Program
- Special Projects
- Homelessness
- Rotating Safe Car Park Program

Source: Mercury News (Nhat V. Meyer/Bay Area News Group)



the changes proposed for Building 1 site only. Any updates from other parcels (Building 2, Townhomes) are not reflected here.



Planning

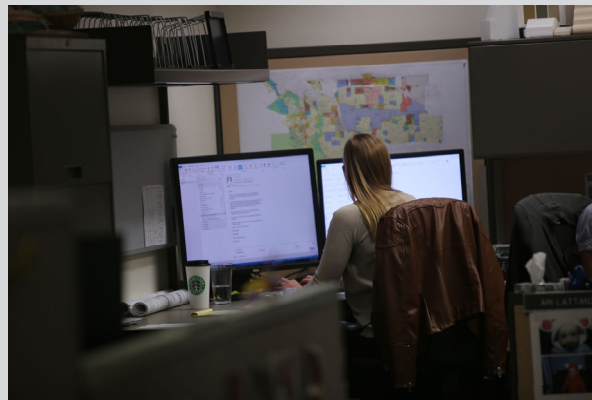
- Long-range Planning focuses on policies to realize City goals.
- Current planning focuses on reviewing projects for consistency with those goals.



STEVENS CREEK BLVD - SOUTH ELEVATION

Planning

- Public Counter Service
- Development and Use Permits
- Long Range (Policy & City Work Program)
- Building Permit review
- Business Licenses
- Internal Collaboration:
 - Building
 - Code Enforcement,
 - Public Works
 - Economic Dev.



Planning *(contd.)*

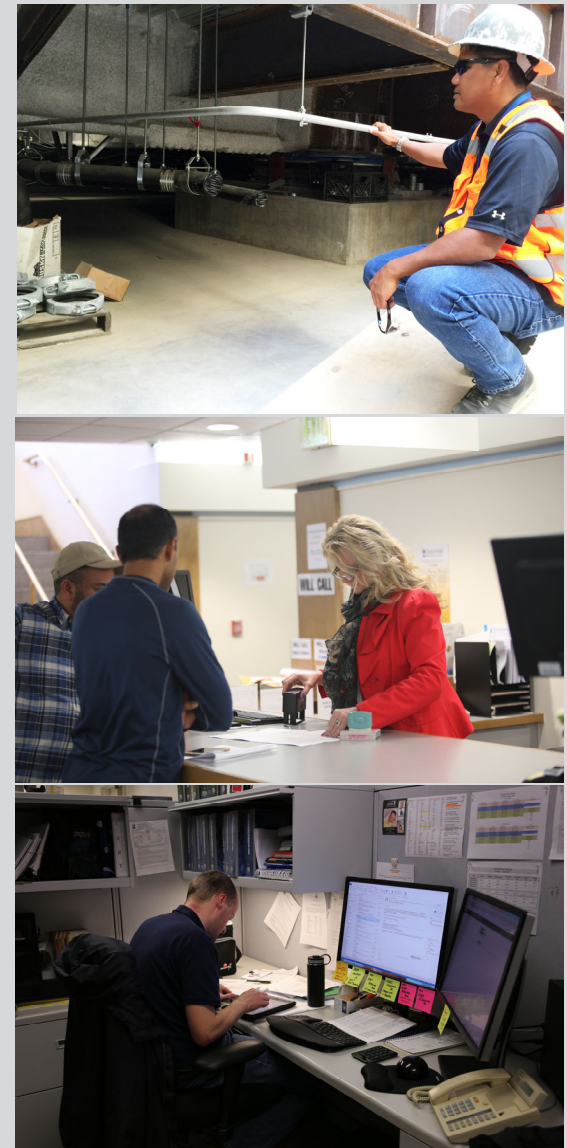
- Planning Commission
- Committees:
 - Environmental Review Committee
 - Design Review Committee
 - Community Engagement Plan – Strategic Advisory Committee (Housing Element)
- Administrative Hearings

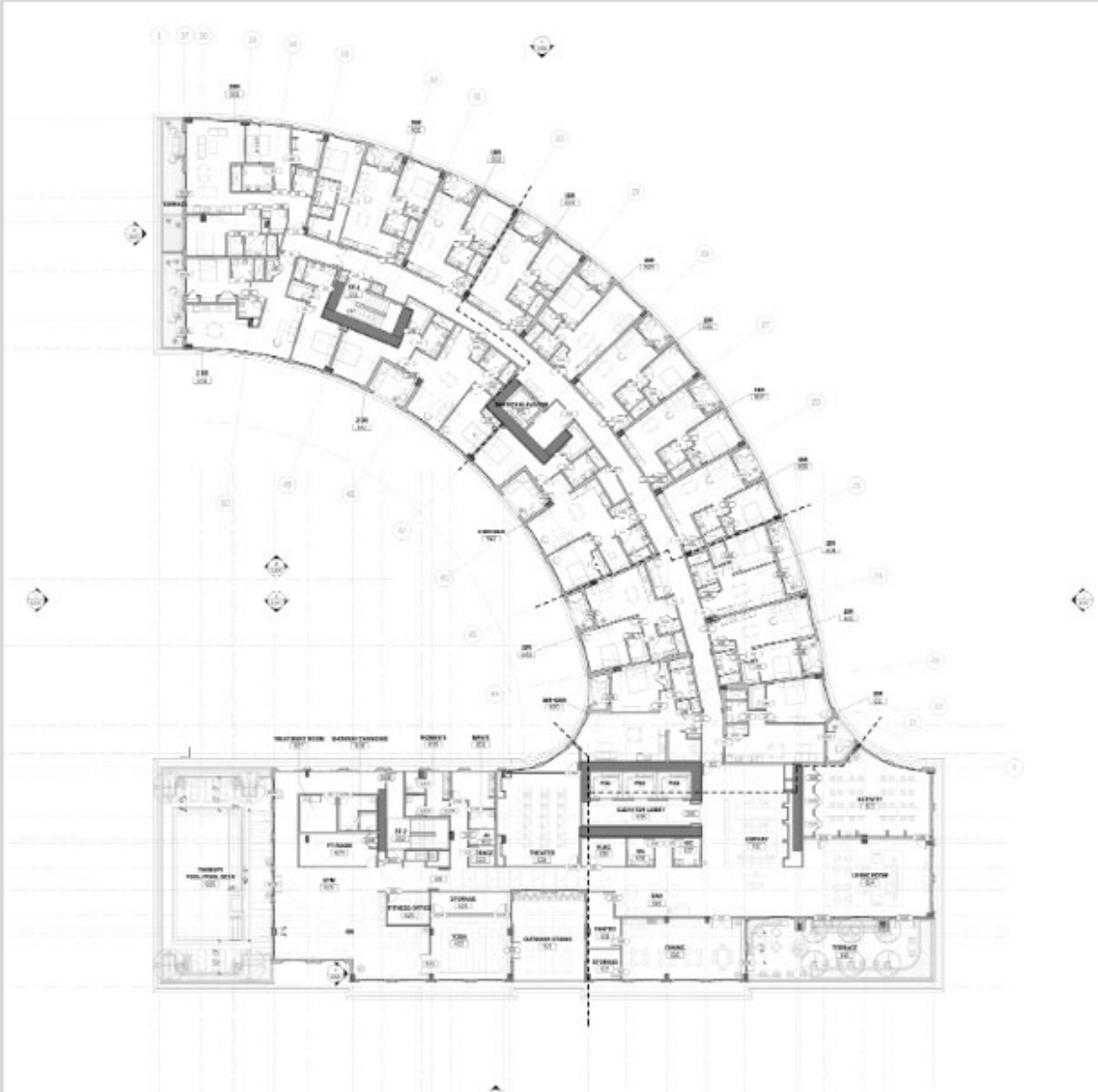


Building

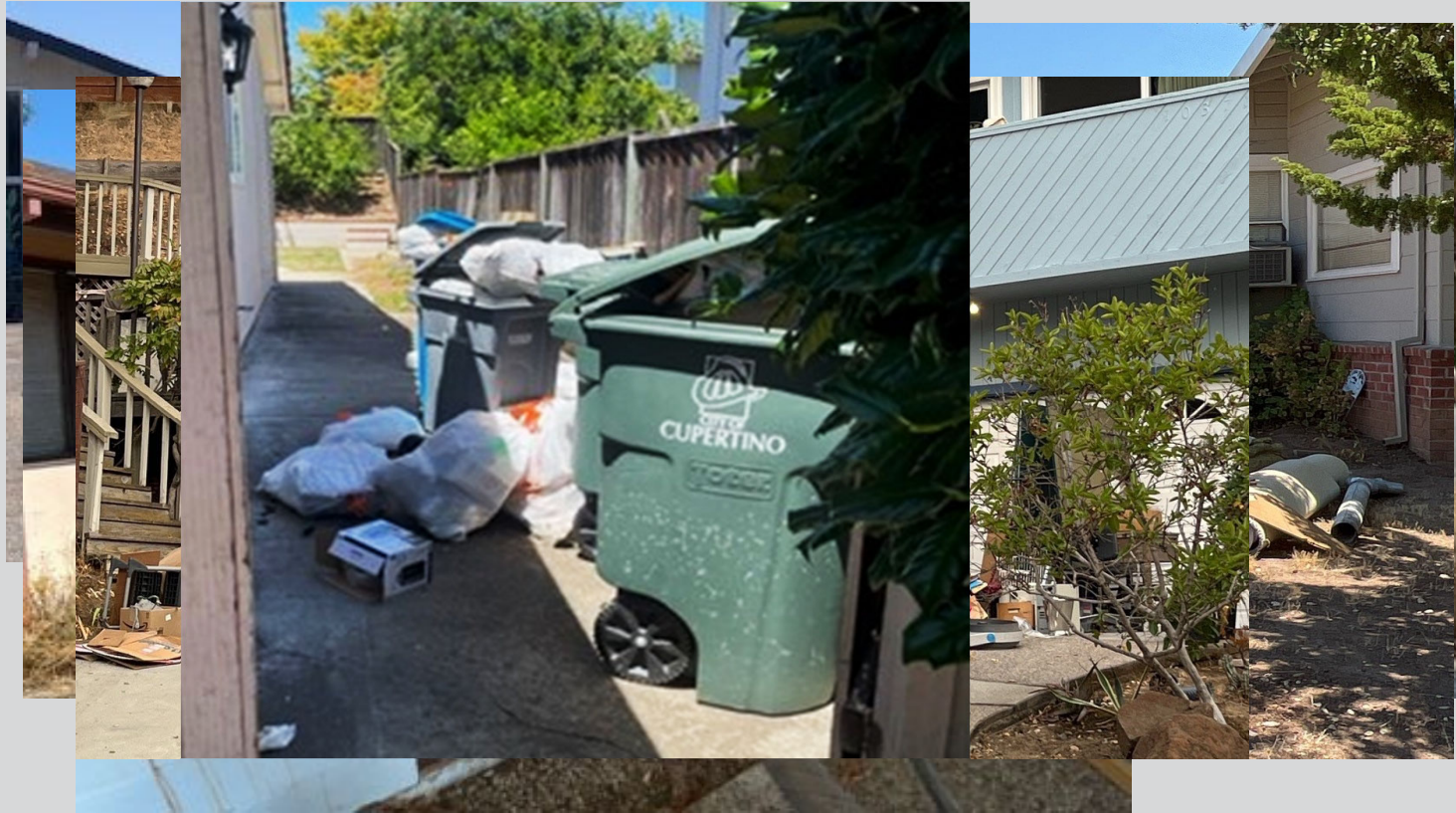
- Inspections: **10,425**
- Bldg Permits created: **2,199**
- Bldg Permits Issued: **1,987**
- Plan Reviews (Planning/Building Divisions) Completed: **2,708**

* All figures for calendar year 2022





Code Enforcement





Code Enforcement Division (*cont.*)

- Respond to residents' concerns
- Prioritize health & safety, quality of life issues
- Elimination/correction of blighted conditions
- Property maintenance consistent with property values and Neighborhood character
- Address issues within neighborhoods that may be in transition or in distress
- Comply with Federal, State and local laws

CC 12-06-2022

#13

Small Wireless Facilities

Presentation

SMALL WIRELESS FACILITIES DRAFT ORDINANCE REVIEW

STUDY SESSION
12/6/2022



CUPERTINO

Objectives

- Provide Direction on whether to proceed with preparing an Ordinance and Regulations
- Provide Input On the Draft Ordinance & Draft Regulations
- Staff Will Make Revisions (Subject to Legal Review)
- Bring Final Ordinance and Regulations for Consideration in Future

Agenda

- What Cities Can and Can't Do
- Discuss Efforts Undertaken by City
- Discuss Updated Preference List
- Draft Ordinance – What is Does
- Draft Regulations – What is New

Background

- Cities **Can** Regulate Aesthetic Appearances
- Cupertino Focused on Outreach
- Draft Ordinance strengthens City's process



Laws and Regulations

- Authority to Regulate Aesthetics and Manage Public Right of Way
- Regulation Must Not Be Based on Health Concerns
- Regulation Must Not “Materially Inhibit” Wireless Service
- “Shot Clocks” for Application Review
- FCC 2018 Order:
<https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>

Prior Information

- Previous study sessions
 - May 16, 2017
 - May 15, 2018
 - July 16, 2019
 - May 5, 2020
 - September 15, 2020
 - April 20, 2021
 - Council recommended consideration of ordinance
- www.cupertino.org/5G

What Cupertino Has Done

Outreach

- Mailed Notifications
Property owners notified of installations
- Response to Community Inquiries
Inquiries heard, logged, & responded to
- Door Hangers
Placed prior to construction activities
- Cupertino.org
<https://www.cupertino.org/5G>

What Cupertino Has Done

Aesthetics

- Aesthetic Standards within City's Jurisdiction
- Uniform Design Standard was Established

Spacing Requirements

- Created to Ensure no Monopoly of Services
- Currently 500-feet => Consider 750-feet

Site Preference Guidelines

- Preference for Commercial over Residential
- Consider Expanding for Clarity and Aesthetics

Current Preferred Siting Guidelines

- Category 1 – Preferred Locations
 - Non-Residential
- Category 2 – Less Preferred Locations
 - Residential
- Category 3 – Least Preferred Locations
 - Close proximity to occupied structures, schools, playgrounds.
 - Prohibited if can be located in Categories 1 & 2 and meet needs.

Proposed Installation Preferences

1 - Preferred Locations:

Mixed use and Non-Residential

2 - Residential along Arterial or Main streets

3 - Residential along Collector streets

4 - Other Residential Locations

5 - Within 100-feet of a School or State

Designated Protected Properties

6 - Installations on Wooden Poles

7 - Least Preferred Installations:

Strand Mounted Equipment

Tier 6 – Wooden Utility Poles



Tier 7 – Strand Mounted Equipment



Draft Ordinance

- Requires a Permit
- Adopts Regulations to Implement Ordinance
- Requires Notification within 300'
- Authorizes establishment of Fee
- Provides for Resident Appeals to City Manager
- Provisions for Revocation/Removal of Facilities

Draft Regulations

- Establishes Requirements, including RF Compliance and Testing
- Encourages Pre-submittal Community Meetings
- Authorizes Peer Reviews
- Includes Standard Conditions of Approval
- Establishes Preference Tiers
- Includes Detailed Design Standards
- Establishes 750-foot minimum between facilities from same carrier

Next Steps

- Provide Direction on whether to proceed with preparing an Ordinance and Regulations
- Provide Input On the Draft Ordinance & Draft Regulations
- Staff Will Make Revisions (Subject to Legal Review)
- Bring Final Ordinance and Regulations for Consideration in Future

Questions?



Public Notification Radius

Cupertino - 300' Radius

Campbell - 300' Radius

Los Altos - 500' Radius

Los Gatos - 300' Radius

Mountain View - 300' Radius

Palo Alto - 600' Radius

San Jose - 250' Radius

Sunnyvale - 300' Radius

Public Commenting Period

Cupertino - 21 Days

Campbell - 14 Days

Los Altos - 10 Days

Los Gatos - 20 Days

Mountain View - 7 Days

Palo Alto - 14 Days

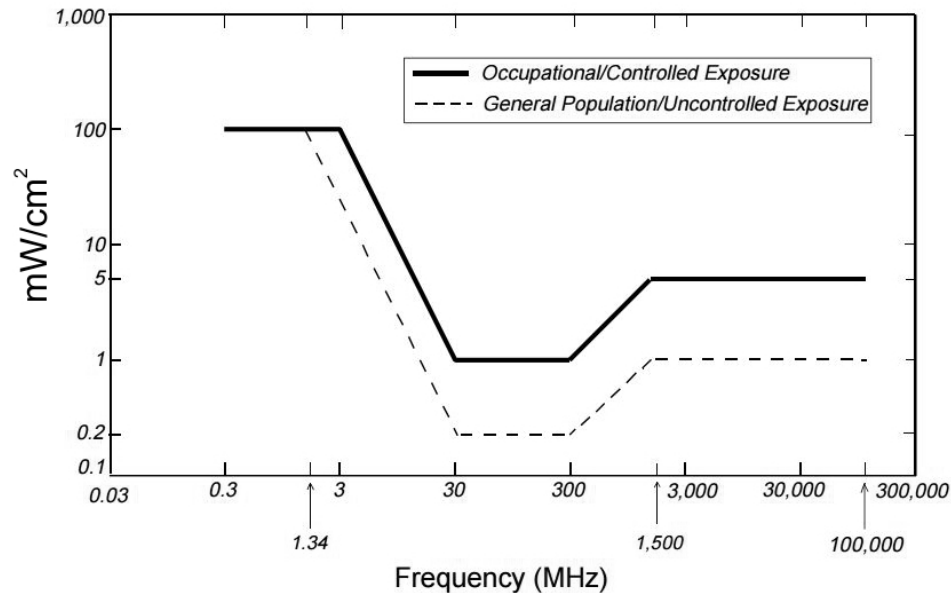
San Jose - 20 Days

Sunnyvale - 14 Days

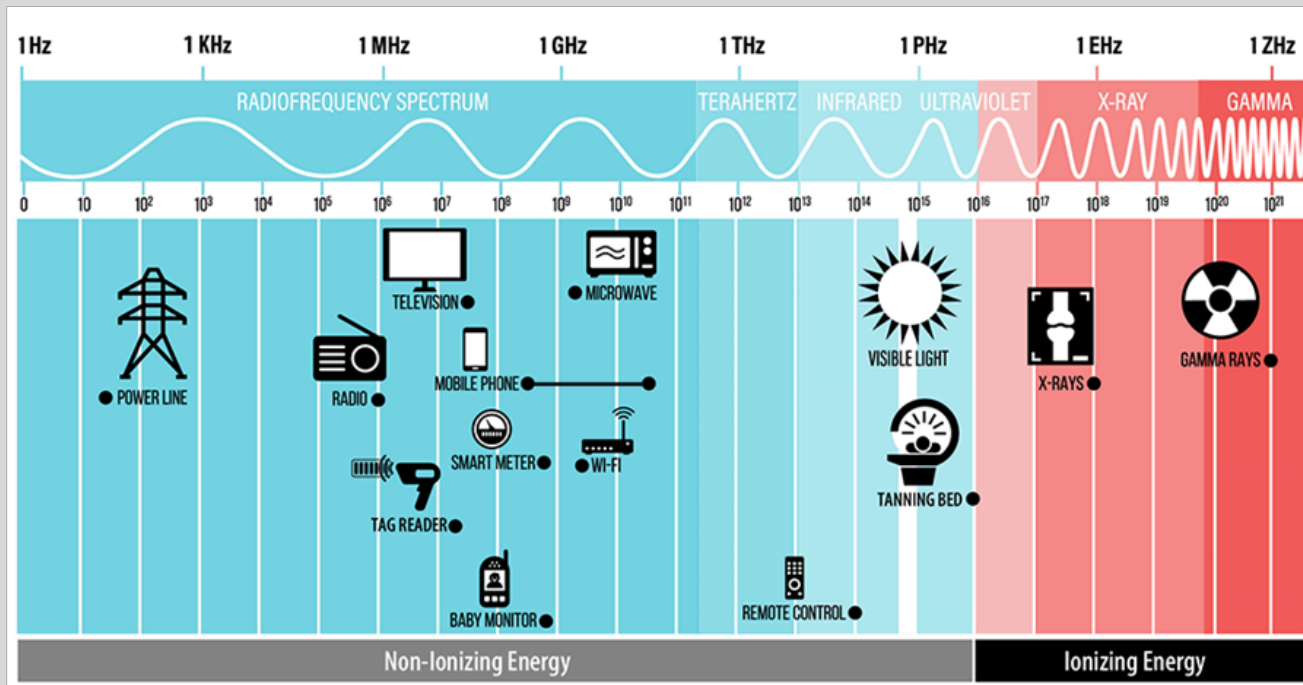
Federal RF Exposure Standards

Figure 1. FCC Limits for Maximum Permissible Exposure (MPE)

Plane-wave Equivalent Power Density



Spectrum Exhibit



CC 12-06-2022

#14

Marina Plaza
Development

Presentation

Marina Development
10145 N. De Anza Blvd, 10118
Bandley Dr.,
December 6, 2022



CUPERTINO



Subject

Consider approval of a proposed development that will include approximately 41,268 sq. ft. of commercial space and 206 residential condominium units.

Applications

- Addendum to a Mitigated Negative Declaration & Development Permit (DP-2022-001);
- Architectural and Site Approval Permit (ASA-2022-002);
- Vesting Tentative Map (TM-2022-003); and
- Tree Removal Permit (TR-2022-026).

Project Location



- Mix of uses
- Heart of the City Specific Plan Special Area
- North Crossroads Node

Priority Housing Site

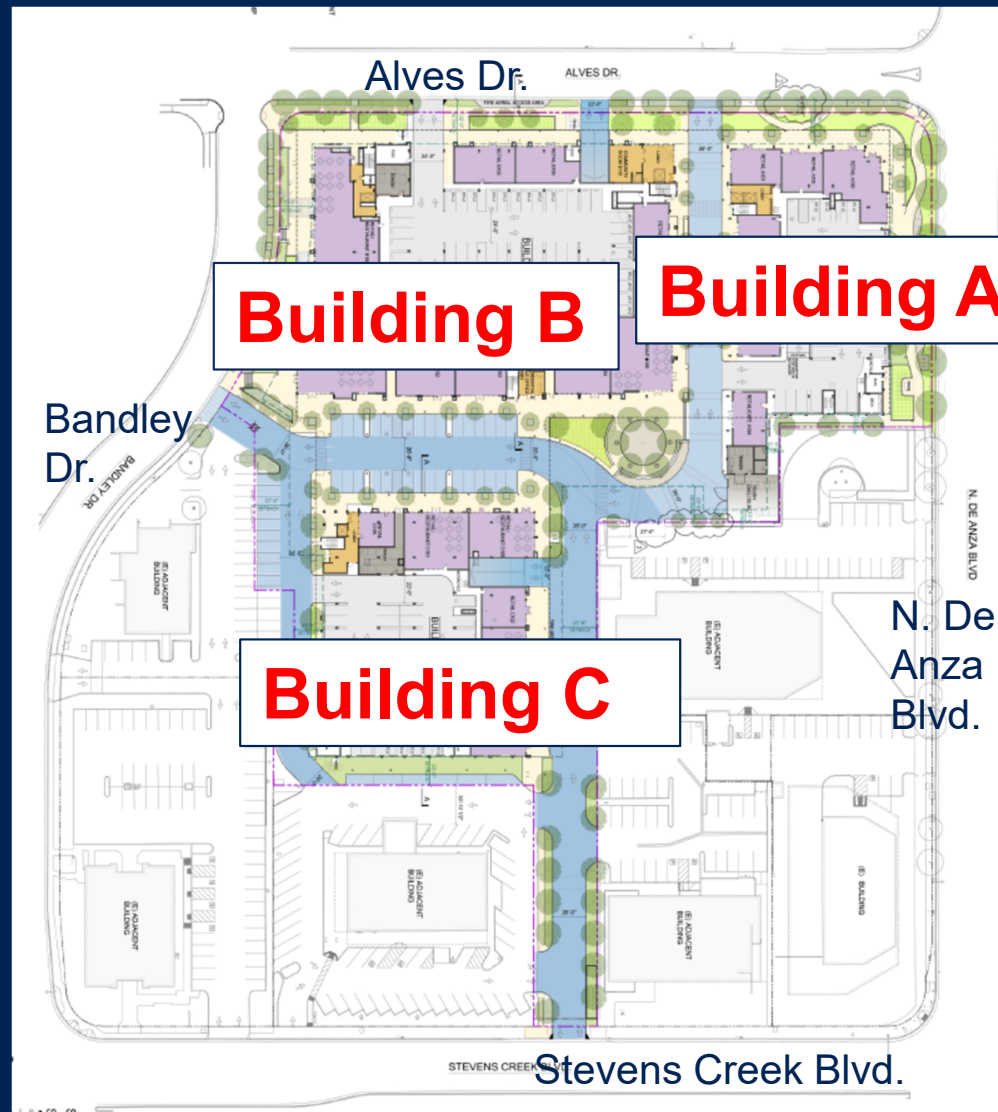
- Priority Housing Site in General Plan/Housing Element
- Allocated 200 units based on 'Realistic Capacity', 85% of maximum capacity
- SB 330 application

Project Data

- Three residential/commercial buildings:

	No. Of Story	Total condo units	Ground floor retail space
Building A	5	56	9347
Building B	4	86	22802
Building C	5	64	9440

- One-level, below-ground garage under each building with 419 parking spaces.
- 188 onsite and offsite tree replacements, for the 92 protected development trees proposed to be removed and/or relocated.
- A vesting tentative map that would merge the two properties into a single parcel.



Prior Approval

September 9, 2016, the City Council approved a new mixed-use development within three buildings including:

- 188 apartments
- Approximately 22,600 square feet of commercial space
- 122-room hotel
- Five-year DA, and project approval (September 20, 2016 and expired on September 20, 2021)


Prior Approval

	Approved	Proposed
Commercial	22,600 s.f.	41,589 s.f.
Hotel	122 Rooms	-
Residences	188 Apartments	206 Condominiums
BMR Units	16 Very Low-Income Units	36 units (18 Median-Income Units; 18 Moderate-Income)
Building Height	45 feet	44 – 58.5 feet
Building Area	389,019 s.f.	570,572 s.f.

Density Bonus and Waiver Requests (CMC 19.56)

- Density bonus for median-income units selected.
- Applicant entitled to Density Bonus (15%) allowed by State Law (27 units) in addition to the base density of 179 units, or 206 units.

	Number of Below Market Rate Units	Percentage of Development Units
Moderate Income	18 units (50% of affordable units)	10%
Median Income	18 units (50% of affordable units)	10%



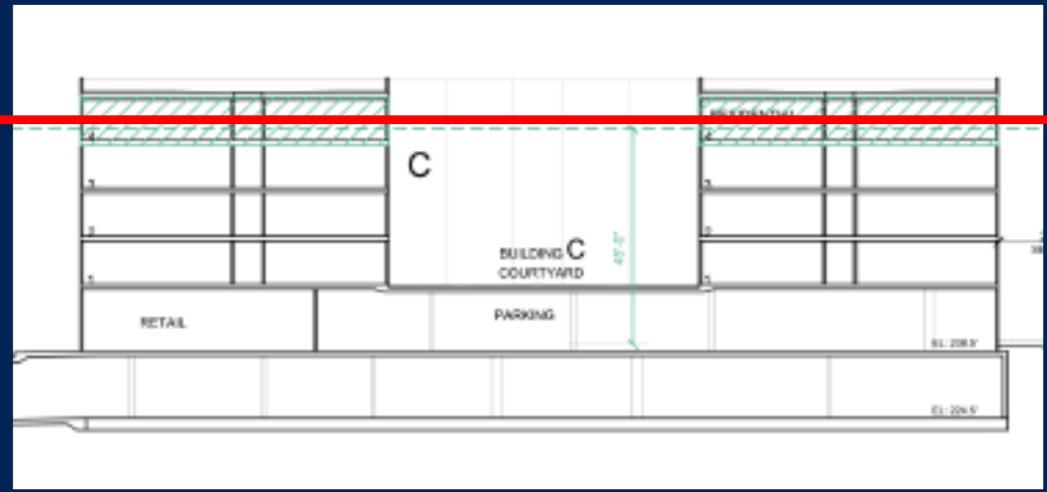
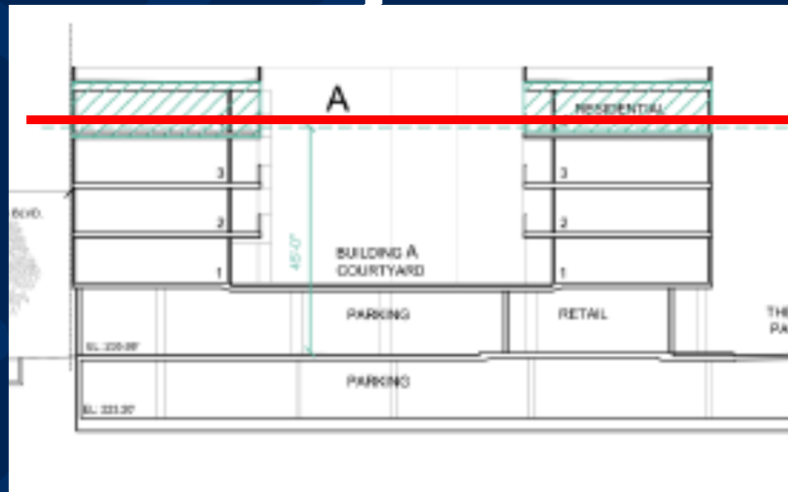
Density Bonus and Waiver Requests (CMC 19.56)

Applicant may request waivers or reduction of development standards that will have effect of physically precluding construction of a density bonus development.

Density Bonus and Waiver Requests (CMC 19.56) – Height of Structures

	<u>Allowed/Required</u>	<u>Proposed</u>
Height of Structures	Up to 45 feet	Building A – 58 feet 6-inches at the roofline (Waiver Requested)
		Building B – 44 feet
		Building C – 55 feet at the roofline (Waiver Requested)

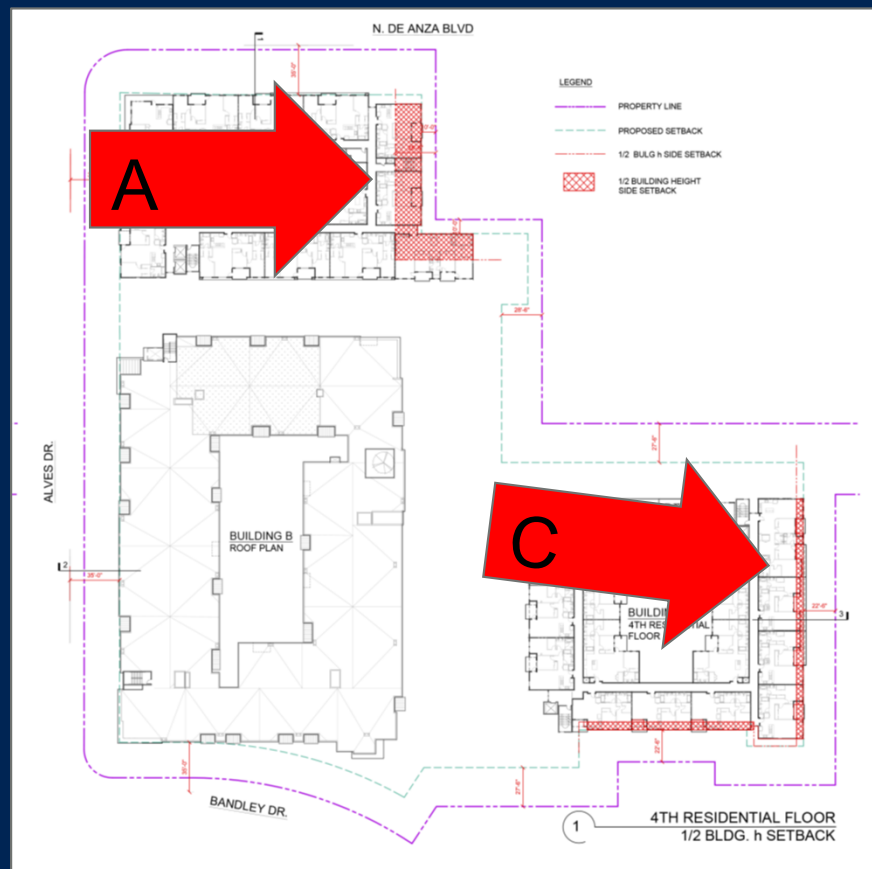
Density Bonus and Waiver Requests (CMC 19.56) - Height of Structures



Density Bonus and Waiver Requests (CMC 19.56) – Side Setback

	<u>Allowed/Required</u>	<u>Proposed</u>
Side (Minimum One-half (1/2) the height of the Building or ten (10) feet, whichever is greater)	Building A - 28 feet 6-inches required	Building A – 10 feet (Waiver Requested)
	Building B – 22 feet required	Building B – 102 feet
	Building C - 27 feet 6-inches required	Building C – 22 feet 6-inches (Waiver Requested)

Density Bonus and Waiver Requests (CMC 19.56) – Side Setback



Density Bonus and Waiver Requests (CMC 19.56) – Residential Common Open Space

	<u>Allowed/Required</u>	<u>Proposed</u>
Residential (150 s.f. per unit)	30,900 s.f.	30,266 s.f. (Waiver Requested)
Commercial (Retail) (2.5% of gross floor area of buildings \geq 20,000 sq. ft., or restaurants \geq 10,000 sq. ft.)	1,040 s.f.	13,275 s.f.

Density Bonus and Waiver Requests (CMC 19.56) – Justification

- **Height Waiver:** 30 units would be lost if the 45-foot height limit were enforced, including entire fourth floors of Buildings A and C.
- **Side Setback Waiver:** Lose approximately eight units per floor in Buildings A and C, for an overall combined total of at least 30 units.
- **Common Open Space:** Remove a total of five (5) units (150 s.f. * 5 = 750 s.f.) from the project (Bldg. A– 3 units, Bldg. B - 2 units, and Bldg. C - 1 unit)

A stylized sunburst or starburst graphic in shades of blue, located on the left side of the slide. It features multiple rays emanating from a central point, creating a dynamic, geometric pattern.

Findings Required for Denial of a Waiver or an Incentive/Concession

- That the waiver or incentive/concession would have an adverse impact on real property listed in the California Register of Historic Resources; or
- That the waiver or incentive/concession would have a specific, adverse impact upon public health or safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the residential project unaffordable to low- and moderate-income households; or
- That the waiver or incentive/concession is contrary to state or federal law.

Unit Comparability

	Average Bedroom Count	Average Gross Area
Overall Market Rate Units	2.4 bedrooms	1,304 sq.ft.
Moderate Income BMR Units	2.4 bedrooms	1,307 sq.ft.
Median Income BMR Units	2.4 bedrooms	1,301 sq.ft.

Parking Analysis

The City's Density Bonus Ordinance, in compliance with State Law, allows density bonus projects option to use alternate parking standards for all residential units:

Building Use	Parking Standards per Density Bonus Law (65915 (p))	# of Units or S.f.	Required Spaces	Provided Spaces
Residential Condos	One-bedroom units = 1 onsite space/unit	9	9	338
	Two- and three-bedroom units = 1.5 onsite spaces/unit	197	296	
	4+ bedroom units = 2.5 spaces/unit	0	0	
	Sub-total	206	305	338
Retail	1 space per 250 s.f.	41,589 s.f.	166	269
Total			471	607

Tree Removal and Replacement

- Replace 92 removed trees with 188 trees (140 on-site and 48 off site). Of those trees, 39 will be 24" Box Crape Myrtle.

Protected Trees Removed	Sizes	Required	Replacements	
			24-inch box	36-inch box or more
62	Up to 12 inches*	One 24" box tree	63	
30	Over 12 inches and up to 36 inches	Two 24" box trees or One 36" box tree	57	20
Totals		122 (24-inch box)	120	20



Vesting Tentative Map

Vesting Tentative Map (VTM) merges two separate lots to create one 5.1-acre parcel.

- The consolidated parcel will include a condominium map for the 206 condominiums.
- A condition of approval has been added to the VTM that would require dedication of reciprocal easements ensuring cross access between the parcels, for emergency vehicles and public.

Architectural Design



Architectural Design



Architectural Design





Environmental Review

- On September 6, 2016, the City of Cupertino adopted the Initial Study and Mitigated Negative Declaration (2016 MND).
- City consultant completed an addendum to 2016 MND in accordance with CEQA Guidelines section 15164.
- Construction and operation of the modified project would not result in any new impacts or increase the severity of previously identified significant impacts analyzed in the Adopted MND.



Housing Accountability Act

- Limits ability of a city to deny or impose certain conditions on a housing development project when project complies with applicable, objective general plan, zoning, and subdivision standards and criteria.
- This project is a “housing development project” under HAA because it is a mixed-use development consisting of residential and nonresidential uses with at least two-thirds of square footage designated for residential use.
- Project is either consistent with City’s objective standards or has applied for waivers and/or incentives/concessions under Density Bonus Law.



Housing Accountability Act

May disprove project if:

- The project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density; and
- No feasible method to satisfactorily mitigate or avoid the adverse impact exists.

Outreach

Applicant outreach efforts:

- **January 7, 2022** – meeting with the sister City delegations. Eight guests attended.
- **April 2 & 13, 2022** – residential and commercial/office property owners within 2,000 feet of the site invited to the Aloft Hotel. 18 members of the public attended.
- **October 5 & 8, 2022** – residential and commercial property owners within 2,000 feet of the site invited to the Aloft Hotel. 23 members of the public attended.

Planning Commission – 11/10/22

- Recommended (5-0) that City Council adopt the first amendment to the mitigated negative declaration and adopt resolutions
- Added Conditions
 - Present to City Council a landscape palette that utilizes native trees, shrubs, and/or ground cover.
 - Amend Condition 21 memorializing applicant's proposal for the community room located on the ground floor of Building B to be open to 501(c)(3) organizations registered in the City of Cupertino.
 - Prior to issuance of Building Permits, applicant shall implement best practices to manage indoor air pollution
- Consider applying for a General Plan amendment to allow an added floor on Building B to allow for additional affordable units.



Conclusion

Staff recommends approval of the project because the project and conditions of approval addressed concerns related to the proposed development and all of the findings for approval of the proposed project, consistent with Chapters 14.18, 18.28, 19.56, 19.156, and 19.168 of the Cupertino Municipal Code, could be made. Concerning the development's height, side setback, and common open space waivers, evidence in the record demonstrated that the project met the standards for granting the waivers under the State Density Bonus Law.



Next Steps

The City Council's decision will be final unless reconsidered within 10 days of the decision. The applicant may apply for building permits at that time.